S.B.Civil Writ Petition NO.2170/2005

Bhanwar Singh and ors. vs State of Rajasthan & ors.

DATE OF ORDER : - 13.4.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. S.L. Jain, for the petitioners.

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Heard learned counsel for the petitioners.

According to learned counsel for the petitioners, the size of outlet cannot be changed by the order of Superintending Engineer or even by the order of Executive Engineer unless a notice under Rule 11 of Rajasthan Irrigation and Drainage Rules is given to the persons affecting the said change.

According to learned counsel for the petitioners, the respondents are going to change the size of outlet and it will adversely affect the petitioners also. It is submitted that when the matter was brought to the notice of Hon'ble Minister, the Officer on Special Duty from Government of Rajasthan even sent a letter to the Chief Engineer on 21.9.2004.

I have considered the submissions of learned counsel for the petitioner and perused the documents on record.

It is clear from Annex.2 that a survey was conducted and it was found that from certain outlets, excess water is flowing, therefore, outlets are required to be corrected so that irrigation water may be

drawn according to sanctioned water only. The Superintending Engineer by order dated 18.9.2004 only ordered that the outlets may be repaired (theekh karne hain) and there is no decision to change the outlet in any manner. It is true that before making any change in the outlet, the notice is required to be given under Rule 11 but for maintaining the outlets to sanction design so as to draw the water which was sanctioned for outlet, there is no need of any notice to the cultivators because the cultivators cannot claim any excess water simply because by passing of time, the outlet started giving more water to the cultivators.

In view of the above, I do not find any merit in the submission of learned counsel for the petitioners.

However, it appears from Annex.1 and Annex.4 also that the State administration is fully conscious and, therefore, taking care of passing orders for correction of the oversized outlets which is clear from Annex.4, therefore, in view of the above also, there is no material to assume that there is a decision to change the outlet.

In view of the above discussion, I do not find any merit in the writ petition and the same is hereby dismissed.

(Prakash Tatia), J.

s.phophaliya/-